



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Number: **201110012**  
Release Date: 3/11/2011

Date: 12/14/2010

501.03-00  
501.03-05  
501.03-19

Contact Person:

Identification Number:

Contact Number:

Employer Identification Number:

Form Required To Be Filed:

Tax Years:

Dear :

This is our final determination that you do not qualify for exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(3). Recently, we sent you a letter in response to your application that proposed an adverse determination. The letter explained the facts, law and rationale, and gave you 30 days to file a protest. Since we did not receive a protest within the requisite 30 days, the proposed adverse determination is now final.

Because you do not qualify for exemption as an organization described in Code section 501(c)(3), donors may not deduct contributions to you under Code section 170. You must file Federal income tax returns on the form and for the years listed above within 30 days of this letter, unless you request an extension of time to file. File the returns in accordance with their instructions, and do not send them to this office. Failure to file the returns timely may result in a penalty.

We will make this letter and our proposed adverse determination letter available for public inspection under Code section 6110, after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437. If you agree with our deletions, you do not need to take any further action.

In accordance with Code section 6104(c), we will notify the appropriate State officials of our determination by sending them a copy of this final letter and the proposed adverse letter. You should contact your State officials if you have any questions about how this determination may affect your State responsibilities and requirements.

If you have any questions about this letter, please contact the person whose name and telephone number are shown in the heading of this letter. If you have any questions about your Federal income tax status and responsibilities, please contact IRS Customer Service at 1-800-829-1040 or the IRS Customer Service number for businesses, 1-800-829-4933. The IRS Customer Service number for people with hearing impairments is 1-800-829-4059.

Sincerely,

Robert Choi  
Director, Exempt Organizations  
Rulings & Agreements

Enclosure  
Notice 437  
Redacted Proposed Adverse Determination Letter  
Redacted Final Adverse Determination Letter



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Date: 10-29-2010

501.03-00  
501.03-05  
501.03-19

Contact Person:

Identification Number:

Contact Number:

FAX Number:

Employer Identification Number:

Legend:

<u>State</u>	=
<u>Event</u>	=
<u>Sport</u>	=
<u>M</u>	=
<u>Legal Fund</u>	=

Dear :

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code section 501(a) ("Code"). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

FACTS

You were incorporated under the State Nonprofit Corporation Act for "charitable, benevolent and educational purposes, or the fostering national amateur sports competition within the meaning of Section 501(c)(3) of the Internal Revenue Code" (sic).

You state that your primary activity "will be largely limited to receiving contributions and investment income and conducting activities in furtherance of the Corporation's exempt purposes," which include:

1. Serving underrepresented and minority interests in amateur athletics;
2. Monitoring the administration of amateur athletics and ensure fairness in such administration;
3. Promoting institutional and individual accountability for administrative decisions that offend notions of fair play; and
4. Taking or providing support for others' actions to challenge and correct administrative abuses in amateur athletics.

You state that you may make distributions to individuals and organizations in furtherance of these purposes.

Specifically, you state that you intend to act as a self-appointed watchdog monitoring intercollegiate and other amateur athletic administration and governance, and stepping-in to oppose those policies or enforcement proceedings that offend fairness in college and other amateur athletics. You further state that these activities center on fostering fair national amateur sports competition through public awareness and educational campaigns.

You state that you will engage in a myriad of initiatives including:

- Assistance in Title IX compliance and application through education and tutoring
- Education and oversight of performance enhancing substance abuse programs
- Monitoring and curtailing exploitation of student-athletes
- Promoting and seeking the elimination of the Event

In your letter dated January 27, 2010, you state that in connection with the above activities you have not engaged in, developed or planned any workshops. You state that you anticipate the potential for conducting workshops with amateur athletics, but you have not identified any workshops that you potentially could offer in the future. In addition, you have not prepared any educational materials, developed criteria for participation in your programs, or planned any workshops or seminars for any of your initiatives. Your website contains no information regarding any current or future workshops or seminars that you plan on offering to amateur athletes or universities. The website is devoted entirely to raising funds for the purpose of initiating an anti-trust lawsuit against the Event.

You state that a majority of your time will be spent on your grassroots movement of replacing the Event with a fair and open M system for Sport. Your website is devoted exclusively to raising funds for your Legal Fund. According to your website, amounts collected by your Legal Fund will be used to file a lawsuit against the Event.

## LAW

Section 501(a) of the Internal Revenue Code ("Code") provides that an organization described in sections 501(c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under sections 502 or 503.

Section 501(c)(3) of the Code describes, in part, an organization that is organized and operated exclusively for charitable or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment . . .)

Section 501(j) of the Code provides that an amateur sports organization which is organized and operated exclusively to foster national or international amateur sports competition may qualify for exemption from federal income taxes if such organization is also organized and operated primarily to conduct national or international competition in sports or to support and develop

amateur athletes for national or international competition in such sports.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations ("regulations") provides that in order to qualify for exemption, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either of the above tests, the organization will not qualify for exemption.

Section 1.501(c)(3)-1(b)(1)(iii) of the regulations states that an organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it to carry on, otherwise than as an insubstantial part of its activities, activities which are not in furtherance of one or more exempt purposes, even though the organization is, by the terms of the articles of incorporation, created for a purpose that is no broader than the purpose specified in section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(c)(1) of the regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Rev. Rul. 80-215, 1980-2 C.B. 174 holds that a nonprofit organization formed to develop, promote and regulate a sport for individuals under 18 years of age by organizing local and statewide competitions, promulgating rules, organizing officials, presenting seminars, distributing a newsletter and otherwise encouraging growth of the sport, qualifies for exemption under section 501(c)(3) of the Code. The ruling notes that trusts created for the purpose of promoting sports for children have been upheld as charitable on the basis of either combating juvenile delinquency or advancing education.

Rev. Rul. 70-4, 1970-1 C.B. 126, provides that an organization whose activities consisted primarily of the promotion and regulation of a sport for amateurs is not exempt as a section 501(c)(3) educational organization because the promotion and regulation of a sport for amateurs as described neither improve nor develop the capabilities of the individual nor instruct the public on subjects useful to the individual and beneficial to the community.

Rev. Rul. 67-291, 1967-2 C.B. 184, held that an organization whose purpose and activities further the educational program of the university by providing necessary services to student athletes and coaches qualified for exemption under section 501(c)(3) of the Code.

Rev. Rul. 55-587, 1955-2 C.B. 261, describes a nonprofit interscholastic athletic association formed for the purpose of promoting and protecting the health of high school athletes through uniform interscholastic competition under the direction and control of school officials and of cultivating the ideals of good sportsmanship, loyalty, and fair play. The membership consists of approved and accredited public high schools of a State. The association directs and controls interscholastic high school athletic competition; prescribes eligibility rules for contestants and penalties for the violation of such rules as well as the rules of play in the various sports; conducts sectional, district and state meets or tournaments; arranges schedules for contests; trains and assigns game officials; and makes suitable awards in state meets. It was held that

this organization is organized and operated primarily for educational purposes and is tax exempt under section 501(c)(3) of the Code.

In Hutchinson Baseball Enterprises v. Commissioner, 73 T.C. at 144 1979 U.S. Tax Ct. LEXIS 30, affd. 696 F.2d 757 (10th Cir. 1982), the organization funded and operated an amateur baseball team, leased and maintained baseball fields for the use of Little League, American Legion teams and a baseball camp, and provided coaches for Little League teams. The court held, and the Tenth Circuit affirmed, that the promotion, sponsorship and advancement of amateur sports is a charitable purpose within the meaning of *section 501(c)(3)*.

Rev. Proc. 2010-9, 2010-2 I.R.B. 258 provides in part that exempt status will be recognized in advance of operations if proposed operations can be described in sufficient detail to permit a conclusion that the organization will clearly meet the particular requirements of the section under which exemption is claimed. A mere statement of purposes or a statement that proposed activities will be in furtherance of such purposes will not satisfy this requirement. The organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned, and the nature of the contemplated expenditures. Where the organization cannot demonstrate to the satisfaction of the Service that its proposed activities will be exempt, a record of actual operations may be required before a ruling or determination letter will be issued.

The presence of a single . . . non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly . . . [exempt] purposes." Better Business Bureau of Washington, D.C., Inc. v. United States, 326 U.S. 279, 283 (1945).

## ANALYSIS

Based on the facts presented in your application, we conclude that you are not organized or operated for exempt purposes. Accordingly, you do not qualify for exemption as an organization described in section 501(c)(3) of the Code.

Your application and supporting documentation must demonstrate that your organization meets both the organization test and the operational test under section 1.501(c)(3)-1(a)(1) of the regulations. Exempt organizations must operate exclusively for exempt purposes. Section 501(c)(3) of the Code. The term exclusively has been interpreted to mean primarily. Section 1.501(c)(3)-1(c)(1). A single substantial non-exempt purpose is sufficient to prevent exemption. Better Business Bureau, 326 U.S. at 283. If an organization fails either the organizational or operational test, it cannot qualify as an exempt organization under section 501(c)(3).

An organization will meet the requirements of the organizational test only if its articles of incorporation limit the purpose of the organization to one or more exempt purposes and is not created for a purpose that is broader than the purposes specified in section 501(c)(3) of the Code. Section 1.501(c)(3)-1(b)(1)(iii) of the regulations. Your articles of incorporation include language that is broader than the purposes as specified in section 501(c)(3). Therefore, you are not organized exclusively for exempt purposes.

Based on the information provided, you do not qualify as either a section 501(c)(3) of the Code educational and charitable organization or section 501(c)(3) amateur sports organization. Like

the organization in Rev. Rul. 70-4, your activities consist primarily of the promotion and regulation of Sport through your grassroots activity of replacing the Event with a fair, open, American playoff. This activity does not improve or develop the capabilities of the individual or instruct the public on subjects useful to the individual and beneficial to the community. In addition, your website is entirely devoted to the collection of contributions to your Legal Fund to install a M system for Sport due to Event federal Sherman Antitrust Act violations.

Further, college athletic organizations that promote certain aspects of athletic competition have generally been held to be educational as an integral part of the university and thus exempt from Federal income tax under section 501(c)(3) of the Code. Your activities are not an integral part of the activities of a university. As held in Rev. Rul. 67-291, an athletic program is considered to be an integral part of the educational process of a university, where the organization is providing necessary services to student athletes and coaches. You are distinguishable from the organization described in Rev. Rul. 67-291, your activities do not provide necessary services to student athletes and coaches.

Though you refer to educational activities that could be exempt, you are not yet carrying out those activities, and have not met your burden of disclosing all the facts bearing on your organization, operations and finances that would allow us to make a decision about your future activities. Rev. Proc. 2010-9, *supra*. For example, you have not provided any information on how many student athletes you expect to attend your seminars, how you plan to advertise your activities or programs, whether you will lease or purchase a facility and what kind of curriculum you will teach. You state that you generally anticipate the potential for conducting workshops or seminars with amateur athletes, but you have not planned to actually offer any future workshops or seminars or developed any documents or materials for any future or potential workshops or seminars. In addition, your website provides no information about any future workshops or seminars that may be offered. An organization must fully describe the activities in which it expects to engage, including the standards, criteria, procedures, or other means adopted or planned, and the nature of the contemplated expenditures. You have not provided sufficient detail to conclude that you are operated for an exempt purpose.

You are unlike the organization in Hutchinson Baseball Enterprises v. Commissioner, 73 T.C. at 144 1979 U.S. Tax Ct. LEXIS 30, *affd.* 696 F.2d 757 (10th Cir. 1982). In that case, the organization's primary activities resulted in the furtherance of amateur athletics. The organization provided coaching and instruction for children and recruited only top amateur baseball players to play on the team it sponsored. The organization also hired a coach, general manager and trainer to work with the team. In contrast, you provide no formal or ongoing instruction to your members, nor do you have any other characteristics that indicate that your activities are in the furtherance of amateur athletics.

The remaining issue is whether you are a section 501(j) of the Code, "qualified amateur sports organization." Section 501(j)(2) requires that, in addition to fostering amateur athletics, a qualified amateur athletic organization must conduct national or international sports competition or support and develop amateur athletes for national or international competition in such sports. The typical activities of amateur athletic organizations include promulgation of official rules and standards of play, the chartering and supervision of teams, the provision of coaching, equipment, and facilities and the organization of inter-team competition among others.

Based on the information provided, you do not qualify as a qualified amateur sports organization under section 501(j) of the Code. You are not operated for the purposes of conducting national or international sports competition or support and develop amateur athletes for national or international competition in Sport.

## CONCLUSION

Accordingly, we conclude that you do not qualify for exemption as an organization described in section 501(c)(3) of the Code and you must file federal income tax returns.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:

*Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.*

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you. If you want representation during the conference procedures, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at [www.irs.gov](http://www.irs.gov), Forms and Publications.

If you do not file a protest within 30 days, you will not be able to file a suit for declaratory judgment in court because the Internal Revenue Service (IRS) will consider the failure to protest as a failure to exhaust available administrative remedies. Code section 7428(b)(2) provides, in part, that a declaratory judgment or decree shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted all of the administrative remedies available to it within the IRS.

If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to this address:

Internal Revenue Service  
1111 Constitution Ave, N.W.  
Washington, DC 20224



You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Robert Choi  
Director, Exempt Organizations  
Rulings & Agreements